

**SUMMARY:** As of August 8, 2011, it is a violation of Federal law to use Rozol Prairie Dog Bait in the states of Montana, New Mexico, North Dakota, and South Dakota. This is the case even though existing stocks of Rozol Prairie Dog Bait may bear labeling for these states. No person may sell or distribute such existing stocks to a retail customer unless a copy of this order is first provided to the customer. Other transfers of such existing stocks also require providing a copy of this order to the recipient, as described in the order.

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## **US Environmental Protection Agency Office of Pesticide Programs**

**Final Cancellation Order for Rozol Prairie Dog Bait Labeled For Use in  
Montana, New Mexico, North Dakota, and South Dakota**

**August 8, 2011**

**Electronically available at:  
<http://www.epa.gov/pesticides/regulating/rozol.html>**

**Final Cancellation Order for Rozol Prairie Dog Bait Labeled for Use in  
Montana, New Mexico, North Dakota, and South Dakota**

**Background**

On July 27, 2011, the U.S. District Court for the District of Columbia issued an order requiring EPA to take certain measures respecting the registration of Rozol Prairie Dog Bait (EPA Reg. No. 7173-286), pending the completion of endangered species consultation between EPA and the United States Fish and Wildlife Service regarding this product. See *Defenders of Wildlife v. Jackson*, No. 09-cv-1814, July 27, 2011.

Pursuant to court order, on August 8, 2011, EPA approved an application from the product registrant (Liphatech) to amend the label for this product. The label amendment removed Montana, New Mexico, North Dakota, and South Dakota from the list of states where use is authorized. The Court also directed EPA to issue an immediately effective cancellation order respecting Rozol Prairie Dog Bait labeled for use in Montana, New Mexico, North Dakota, and South Dakota, to address any existing stocks of such product.

Neither of these actions limit use of Rozol Prairie Dog Bait, consistent with product labeling, in the remaining six states: Colorado, Kansas, Nebraska, Oklahoma, Texas, and Wyoming.

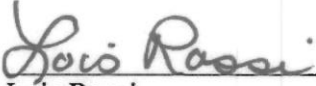

Liphatech may not sell or distribute existing stocks in its possession and control unless they have been relabeled, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") and its implementing regulations, to eliminate the portion of the labeling authorizing use in Montana, New Mexico, North Dakota, and South Dakota. See Paragraph 3 of this order. Once such existing stocks are relabeled consistent with Paragraph 3 of this order, they are no longer existing stocks subject to this order. See the definition of "existing stocks" in Paragraph 2.

Existing stocks that have not been relabeled to eliminate the portions of the labeling authorizing use in Montana, New Mexico, North Dakota, and South Dakota (in accordance with FIFRA and its implementing regulations) are subject to a separate provision of this cancellation order (Paragraph 4), which establishes, independent of the labeling, a FIFRA prohibition on use in these four states. Paragraph 4 furthermore restricts the conditions under which such existing stocks may be sold or distributed. One particular restriction on the sale and distribution of such existing stocks (Paragraph 4.C.) applies even outside of Montana, New Mexico, North Dakota, and South Dakota.

Finally, this order makes clear that it is not based on an EPA determination under FIFRA section 6(b), and does not trigger the procedural requirements at 40 CFR Part 164 Subpart D in the event that EPA later receives an application to amend the label for Rozol Prairie Dog Bait, to add Montana, New Mexico, North Dakota, and South Dakota back to the label. Pursuant to the directions of the Court, EPA is issuing this cancellation order, effective immediately, under FIFRA section 6(a).

## Final Cancellation Order

1. Pursuant to section 6(a)(1) of FIFRA and the July 27, 2011 order of the U.S. District Court for the District of Columbia, EPA hereby issues a final cancellation order for Rozol Prairie Dog Bait (EPA Registration No. 7173-286) that is labeled for use in Montana, New Mexico, North Dakota, and South Dakota. Any distribution, sale, or use of existing stocks in a manner inconsistent with this order will be considered a violation of FIFRA sections 12(a)(2)(K) and/or 12(a)(1)(A). This order is immediately effective and will remain in effect unless and until it is amended.
2. For purposes of this order, the term "existing stocks," is defined, consistent with EPA's existing stocks policy (56 FR 29362, June 26, 1991) as those stocks of Rozol Prairie Dog Bait labeled for use in Montana, New Mexico, North Dakota, and South Dakota that are currently in the United States and which were packaged, labeled, and released for shipment prior to the August 8, 2011 label amendment to delete use in Montana, New Mexico, North Dakota, and South Dakota.
3. Liphatech may not sell or distribute existing stocks within its possession or control unless those stocks have been labeled in accordance with FIFRA and its implementing regulations to prohibit use in Montana, New Mexico, North Dakota, and South Dakota.
4. With respect to existing stocks bearing labels indicating that use in Montana, New Mexico, North Dakota, and South Dakota is allowed:
  - A. No person may use such existing stocks in Montana, New Mexico, North Dakota, or South Dakota.
  - B. No person may sell or distribute such existing stocks in Montana, New Mexico, North Dakota, and South Dakota, unless such sale or distribution is for the purpose of disposal, returning the material to the person from whom it was purchased, or for transfer for the purpose of resale outside of Montana, New Mexico, North Dakota, or South Dakota.
  - C. No person may sell or distribute such existing stocks to another person unless, for each such transfer, a copy of this order is provided to such other person at or before the time of the transfer and, additionally, another copy is shipped with the stocks if they are transported by a third party.
  - D. Distribution or sale of such existing stocks, except as prohibited under paragraphs 4.B and 4.C., is permitted until such stocks are depleted. No person may use such existing stocks in a manner that is inconsistent with the previously-approved product labeling.
5. This cancellation order is not based on any determination by EPA under FIFRA section 6(b), or on a final cancellation order as that term is used in 40 CFR 164.130.

  
Lois Rossi  
Director, Registration Division  
  
Date